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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.2403 OF 2018

Vijay Kumar Chaurasiya @Munna

S/o. Ramdeo Chaurasiya

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.J.R.Gupta, i/b Mr.A.K.Dwivedi, for the Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent - State.

PSI – Dilip Tambe, V.P.Road Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 20th JUNE, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.389 of 2016 registered with the V.P.Road Police Station, Mumbai, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. Learned Counsel for the applicant states that the only allegation as against the applicant is an extra judicial confession. He submits that the applicant is in custody since 20th September, 2016 and that the possibility of the trial commencing in the immediate near future is bleak. He relied on certain Judgments to show, that where the only material is an extra judicial confession, bail ought to be granted.

4. Learned APP opposed the application. She submitted that charge is framed and the matter is posted for recording of the evidence on 24th June, 2019.

5. Perused the papers. According to the prosecution, the applicant and the deceased – Shantaram had a quarrel on 20th September, 2016 at around 9.00 to 10.00 p.m., when they were drinking at Kinara Bar. It is alleged that during the quarrel, Shantaram (deceased) assaulted the applicant. It is further alleged that being enraged, the applicant returned and assaulted Shantaram (deceased) with a paver block on his head 2 to 3 times. After the incident, the applicant is alleged to have made an extra

judicial confession to Ajay Kumar, who was present at the spot, when the quarrel took place between the applicant and Shantaram (deceased). A perusal of Ajay Kumar's statement shows that he had witnessed the quarrel between the applicant and Shantaram (deceased) on 20th September, 2016 in Kinara Bar; that in the quarrel Shantaram assaulted the applicant; and that thereafter, when he intervened and asked the applicant to return home, the applicant went elsewhere. According to Ajay Kumar, the applicant came to his residence at 5.00 a.m. and disclosed to him that he had killed Shantaram by throwing a paver block on his head 3 to 4 times and that Shantaram was dead. The said extra judicial confession shows both the motive as well as the complicity of the applicant in the aforesaid offence. Apart from the same, there is recovery of a blood stained paver block at the instance of the applicant. The applicant was arrested on the very same date and was found with blood stained clothes on his person, pursuant to which, the said clothes were sent to the Chemical Analyser. It is informed that the report is awaited. It also appears that trial has commenced inasmuch as, charge is framed and the matter is posted for recording of the evidence on 24th June, 2019. If the applicant is enlarged on bail, the possibility of the applicant tampering and threatening the witnesses, cannot be ruled out.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Hence, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and in any event within 12 months from the date of receipt of the order.

8. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.